

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Clarence Sullivan, #233906,	)	
	)	C/A No.: 9:06-1588-MBS
Plaintiff,	)	
	)	
vs.	)	
	)	<b>O R D E R</b>
Lt. Coleman and Sgt. Hodges of the	)	
South Carolina Department of Corrections,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff Clarence Sullivan is an inmate in custody of the South Carolina Department of Corrections who currently is housed at the Evans Corrections Institution in Bennettsville, South Carolina. At the time of the underlying complaint, Plaintiff was incarcerated at the Turbeville Correctional Institution in Turbeville, South Carolina. Plaintiff, appearing pro se, filed a complaint pursuant to 42 U.S.C. § 1983 on May 24, 2006, asserting that Defendants violated his constitutional rights.

This matter is before the court on Defendants' motion for summary judgment filed August 8, 2006. Defendants contend, among other things, that Plaintiff has failed to exhaust his administrative remedies as required by 42 U.S.C. § 1997e. On August 9, 2006, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), by which Plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Plaintiff filed a response on September 8, 2006.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge George C. Kosko for pretrial handling. On November 13, 2006, the Magistrate Judge filed a Report and Recommendation in which he recommended that

Defendants' motion for summary judgment be granted. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court concurs in the recommendation of the Magistrate Judge that the within action be dismissed to allow Plaintiff to exhaust his administrative remedies. Defendants' motion for summary judgment is **granted** on this ground. The within action is dismissed without prejudice for failure of Plaintiff to exhaust his administrative remedies as required by 42 U.S.C. § 1997e.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

December 18, 2006  
Columbia, South Carolina

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**